

REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the following remarks is respectfully requested.


Claims 5-7, 9-12, and 16-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al. (US 2002/0012786) for the reasons of record. The Examiner states that the two Declarations submitted by Applicants November 3, 2008 are not dispositive of the issue of patentability since the Baker Declaration is an opinion affidavit alleging facts that are unsubstantiated with objective evidence and the Clark affidavit fails to offer comparisons with subject matter over which the claims are rejected. The Examiner further notes that if the allegations in the Baker Declaration are true, objective evidence in support of the same would overcome this rejection.

While Applicants respectfully urge that a technical explanation credible to one of ordinary skill in the art should be sufficient to establish patentability even in the absence of precisely comparable data, and that the previously submitted Baker Declaration ("Baker I") contains a technically well-supported explanation of why the presence of the dominant hydrophobic polymer of the reference would disable the benefits of the invention as to dry time and ozone stability and that such credible technical explanation should accordingly not be considered mere opinion, Applicants submit herewith a further Rule 132 Declaration of Baker ("Baker II"). It is respectfully submitted that the data reported in Baker II provides objective evidence in support of the technical explanations made in Baker I. Consideration thereof and withdrawal of the asserted rejection is accordingly respectfully requested.

In view of the foregoing remarks and Declaration, the claims are now deemed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,


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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.